

Title 226 WAC

FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD

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Chapter 226-01 WAC

DESCRIPTION OF ORGANIZATION

WAC

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WAC 226-01-010 Purpose and authority. Chapter 175, Laws of 1998 provides that the freight mobility strategic investment board shall adopt reasonable rules and procedures necessary to implement the freight mobility program.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-01-010, filed 8/27/99, effective 9/27/99.]

WAC 226-01-020 Freight mobility program intent. It is the policy of the state of Washington that limited public transportation funding and competition between freight and general mobility improvements for the same fund sources require strategic, prioritized freight investments that reduce barriers to freight movement, maximize cost-effectiveness, yield a return on the state's investment, require complementary investments by public and private interests, and solve regional freight mobility problems. State financial assistance for freight mobility projects must leverage other funds from all potential partners and sources, including federal, county, city, port district, and private capital.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-01-020, filed 8/27/99, effective 9/27/99.]

WAC 226-01-030 Organization of the freight mobility strategic investment board. The freight mobility strategic investment board (FMSIB) is a twelve-member board, organized under the provisions of chapter 175, Laws of 1998. The board administers the freight mobility strategic investment program for the purpose of financing freight mobility projects. The following board members are appointed by the governor for terms of four years, except that five members initially are appointed for terms of two years:

(1) Two members, one of whom is from a city located within or along a strategic freight corridor, appointed from a

list of at least four persons nominated by the association of Washington cities or its successor;

(2) Two members, one of whom is from a county having a strategic freight corridor within its boundaries, appointed from a list of at least four persons nominated by the Washington state association of counties or its successor;

(3) Two members, one of whom is from a port district located within or along a strategic freight corridor, appointed from a list of at least four persons nominated by the Washington public ports association or its successor;

(4) One member representing the office of financial management;

(5) One member appointed as a representative of the trucking industry;

(6) One member appointed as a representative of the railroads;

(7) The secretary of the department of transportation;

(8) One member representing the steamship industry; and

(9) One member of the general public.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-01-030, filed 8/27/99, effective 9/27/99.]

WAC 226-01-040 Time and place of meetings. Regular public meetings of the board shall be held on the third Friday of every odd numbered month. Each such regular meeting shall be held in SeaTac, Washington, and begin at the hour of 9:00 a.m. unless otherwise designated by the board and at which time will be posted to the register and FMSIB web site at least twenty days prior to the meeting.

A special meeting of the board may be called by the chairperson or by a majority of the members of the board, by delivering personally or by mail written notice to all other members of the board at least twenty-four hours before the time of such meeting as specified in the notice. The notice calling a special meeting shall state the purpose for which the meeting is called and the date, hour, and place of such meeting, and all provisions of chapter 42.30 RCW shall apply.

[Statutory Authority: Chapter 47.06A RCW. 02-08-076, § 226-01-040, filed 4/3/02, effective 5/4/02; 99-18-048, § 226-01-040, filed 8/27/99, effective 9/27/99.]

WAC 226-01-050 Address of board. Persons wishing to obtain information or to make submissions or requests of any kind shall address their correspondence to:

Executive Director,
Freight Mobility Strategic Investment Board
1063 Capitol Way, Room 201
Post Office Box 40965
Olympia, Washington 98504-0965

[Statutory Authority: Chapter 47.06A RCW. 02-08-076, § 226-01-050, filed 4/3/02, effective 5/4/02; 99-18-048, § 226-01-050, filed 8/27/99, effective 9/27/99.]

WAC 226-01-060 Definitions. For purposes of implementing the requirements of chapter 175, Laws of 1998, relative to the freight mobility strategic investment board, the following definitions shall apply:

(1) "Board" means the freight mobility strategic investment board (FMSIB).

(2) "Department" means the department of transportation.

(3) "Freight mobility" means the safe, reliable, and efficient movement of goods within and through the state to ensure the state's economic vitality.

(4) "Director" is the executive director of the freight mobility strategic investment board.

(5) "Local governments" means cities, towns, counties, special purpose districts, port districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts.

(6) "Public entity" means a state agency, city, town, county, port district, or municipal or regional planning organization.

(7) "Partnership" means the public entities sponsoring a project. The partnership as used in this chapter does not include the board.

(8) "Lead agency" refers to the agency selected by the project partnership to be the point of contact with the board for a particular project.

(9) "Original matching ratio" refers to the board's share of the project cost when it was initially approved for funding.

(10) "Strategic freight corridor" means a transportation corridor of great economic importance within an integrated freight system that:

(a) Serves international and domestic interstate and intrastate trade;

(b) Enhances the state's competitive position through regional and global gateways;

(c) Carries freight tonnages of at least:

(i) Four million gross tons annually on state highways, city streets, and county roads;

(ii) Five million gross tons annually on railroads; or

(iii) Two and one-half million net tons on waterways; and

(d) Has been designated a strategic corridor by the board. However, new alignments to, realignments of, and new links to strategic corridors that enhance freight movement may qualify, even though no tonnage data exists for facilities to be built in the future.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-01-060, filed 8/27/99, effective 9/27/99.]

WAC 226-01-070 Administration costs. The board costs for necessary services and facilities that are attributable to the freight mobility strategic investment program shall be paid from the biennial appropriation.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-01-070, filed 8/27/99, effective 9/27/99.]

Chapter 226-02 WAC

PUBLIC ACCESS TO INFORMATION AND RECORDS

WAC

226-02-010	Purpose.
226-02-020	Public records officer.
226-02-030	Public records available.
226-02-040	Requests for public records.
226-02-050	Availability for public inspection and copying of public records—Office hours.
226-02-060	Inspection and copying cost.
226-02-070	Protection of public records.
226-02-080	Denial of request.
226-02-090	Review of agency denial.
226-02-100	Records index.
226-02-110	Availability.

WAC 226-02-010 Purpose. The purpose of this chapter shall be to ensure compliance by the board with the provisions of RCW 42.17.250 through 42.17.348 dealing with public records.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-02-010, filed 8/27/99, effective 9/27/99.]

WAC 226-02-020 Public records officer. The freight mobility strategic investment board public records shall be in the charge of the executive director, who shall be the public records officer for the board. The person so designated shall be officed in the board's office in Olympia, Washington. The public records officer shall be responsible for implementation of the board's rules and regulations regarding release of public records, coordinating staff efforts of the board in this regard and generally ensuring compliance of the staff with the public records disclosure requirements of chapter 1, Laws of 1973 (chapter 42.17 RCW).

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-02-020, filed 8/27/99, effective 9/27/99.]

WAC 226-02-030 Public records available. All public records of the board, as defined in chapter 42.17 RCW, are available for public inspection and copying as provided in these rules, unless the record falls within the specific exemptions of RCW 42.17.310 or other statute exempting or prohibiting disclosure of specific information or records.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-02-030, filed 8/27/99, effective 9/27/99.]

WAC 226-02-040 Requests for public records. Subject to the provisions of subsection (3) of this section, public records are obtainable by members of the public when those members of the public comply with the following procedures.

(1) A request shall be addressed to the public records officer. Such request shall include the following:

- (a) The name of the person requesting the record.
- (b) The time of day and calendar date on which the request was made.
- (c) The nature of the request.
- (d) If the matter requested is referenced within the current index maintained by the board, a reference to the requested record as it is described in such current index.
- (e) If the requested matter is not identifiable by reference to the board's current index, a statement that identifies the specific record requested.

(f) A verification that the records requested shall not be used to compile a commercial sales list.

(2) The public records officer shall inform the member of the public making the request whether the requested record is available for inspection or copying at the board's office in Olympia, Washington.

(3) When it appears that a request for a record is made by or on behalf of a party to a lawsuit or a controversy to which the board is also a party or when such a request is made by or on behalf of an attorney for such a party, the request shall be referred to the assistant attorney general assigned to the board for appropriate response.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-02-040, filed 8/27/99, effective 9/27/99.]

WAC 226-02-050 Availability for public inspection and copying of public records—Office hours. Public records shall be available for inspection and copying during the normal business hours of the board. For the purposes of this chapter, the normal office hours shall be from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-02-050, filed 8/27/99, effective 9/27/99.]

WAC 226-02-060 Inspection and copying cost. (1) No fee shall be charged for inspection of public records.

(2) The board shall impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy records; such charges shall not exceed the amount necessary to reimburse the board for its actual costs incident to such copying. Actual costs shall include the labor costs of staff, machine cost and paper cost necessary to provide copies of requested records.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-02-060, filed 8/27/99, effective 9/27/99.]

WAC 226-02-070 Protection of public records. In order to implement the provisions of RCW 42.17.290, requiring agencies to enact reasonable rules to protect public records from damage or disorganization, the following rules have been adopted.

(1) Copying of public documents shall be done by board personnel and under the supervision of said personnel, upon the request of members of the public under the procedures specified in WAC 226-02-040.

(2) No document shall be physically removed by a member of the public from the area designated by the board for the public inspection of documents for any reason whatever.

(3) When a member of the public requests to examine an entire file or group of documents, as distinguished from a request to examine certain individual documents which can be identified and supplied by themselves, the board shall be allowed a reasonable time to inspect the file to determine whether information protected from disclosure by RCW 42.17.310 is contained therein, and the board shall not be deemed in violation of its obligation to reply promptly to requests for public documents by reason of causing such an inspection to be performed.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-02-070, filed 8/27/99, effective 9/27/99.]

(2007 Ed.)

WAC 226-02-080 Denial of request. (1) The board shall determine which public records requested in accordance with these rules are exempt under the provisions of RCW 42.17.310 or other statute.

(2) Each denial of a request for a public record shall be accompanied by a written statement to the person requesting the record specifying the reasons for denial, including a statement of the specific exemption authorizing the withholding of the record, in whole or in part, and a brief explanation of how the exemption applies to the record or portion of record withheld.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-02-080, filed 8/27/99, effective 9/27/99.]

WAC 226-02-090 Review of agency denial. Whenever a person objects to a conclusion that a public record is exempt from disclosure, the person may request the attorney general to review the matter in accordance with RCW 42.17.325.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-02-090, filed 8/27/99, effective 9/27/99.]

WAC 226-02-100 Records index. (1) The board has available for public inspection and copying at its offices in Olympia a current index of the following records:

(a) State legislation and proposed rules and regulations pertaining to board standards.

(b) Those statements of policy and interpretations of policy, statute and bylaws which have been adopted by the board;

(c) Minutes of board meetings;

(d) Resolutions approved by the board;

(e) FMSIB program guidelines;

(f) Program reports and publications;

(g) Budgets and expenditures;

(h) FMSIB project administration and accounting files.

(2) A system of indexing shall be as follows:

(a) The indexing system will be administered by the board's public records officer.

(b) Copies of the index shall be available for public inspection and copying in the manner provided in this chapter.

(c) The public records officer shall update the index at least once a year and shall revise the index when deemed necessary by the board.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-02-100, filed 8/27/99, effective 9/27/99.]

WAC 226-02-110 Availability. The board's current index shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-02-110, filed 8/27/99, effective 9/27/99.]

Chapter 226-12 WAC

SUBMISSION OF PROPOSED FREIGHT MOBILITY PROJECTS TO BOARD (FMSIB)

WAC

226-12-010	Designation of lead agency.
226-12-040	Applications for freight mobility projects.
226-12-080	Priority criteria for freight mobility projects.

WAC 226-12-010 Designation of lead agency. The agencies involved in a multiagency project shall designate one agency as the lead agency. The lead agency must be a city, town, county, port or the Washington state department of transportation.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-12-010, filed 8/27/99, effective 9/27/99.]

WAC 226-12-040 Applications for freight mobility projects. When requested by the board, applications for proposed projects shall be submitted to the board by public entities seeking allocation of funds from the FMSIB. The application form will be provided by the board.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-12-040, filed 8/27/99, effective 9/27/99.]

WAC 226-12-080 Priority criteria for freight mobility projects. The board shall use a multicriteria analysis and scoring framework, which may be periodically refined, for evaluating and ranking eligible freight mobility and freight mitigation projects. The prioritization process shall measure the degree to which projects address important program objectives and shall generate a project score that reflects a project's priority compared to other projects. The board shall assign scoring points to each criterion that indicate the relative importance of the criterion in the overall determination of project priority.

[Statutory Authority: Chapter 47.06A RCW. 02-08-076, § 226-12-080, filed 4/3/02, effective 5/4/02; 99-18-048, § 226-12-080, filed 8/27/99, effective 9/27/99.]

Chapter 226-16 WAC REQUIREMENTS FOR FREIGHT MOBILITY PROJECT DEVELOPMENT

WAC

226-16-010	Methods of construction.
226-16-020	Registered engineer in charge.
226-16-040	Standard specifications.
226-16-050	Value engineering study requirements.
226-16-100	Design standards for freight mobility strategic investment board projects.
226-16-110	Allocation of freight mobility strategic investment program funds to regions.
226-16-150	Freight mobility program management.
226-16-160	Work progress on freight mobility projects.
226-16-170	Phase approval of freight mobility projects.
226-16-180	Cost increases on freight mobility projects.
226-16-200	Lack of performance on freight mobility projects.

WAC 226-16-010 Methods of construction. All construction by a public entity using board funds shall be done by advertisement, competitive bid and contract, except:

- (1) Utility and railroad relocations and adjustments; and
- (2) Installation of traffic control devices.

If federal funds are included in the project, the negotiated contract shall include the applicable provisions of federal highway administration policies and procedures prescribed in 23 C.F.R. 140, 23 C.F.R. 645 and 23 C.F.R. 646, *Federal Aid Policy Guide*.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-16-010, filed 8/27/99, effective 9/27/99.]

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WAC 226-16-020 Registered engineer in charge. All projects using board funds shall be planned, designed, and constructed under the supervision of a professional engineer registered in the state of Washington.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-16-020, filed 8/27/99, effective 9/27/99.]

WAC 226-16-040 Standard specifications. The current edition of the WSDOT/APWA *Standard Specifications for Road, Bridge, and Municipal Construction* shall be included in any contract using board funds.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-16-040, filed 8/27/99, effective 9/27/99.]

WAC 226-16-050 Value engineering study requirements. Value engineering studies shall be required in accordance with the policy adopted by the board.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-16-050, filed 8/27/99, effective 9/27/99.]

WAC 226-16-100 Design standards for freight mobility strategic investment board projects. All board funded projects shall be prepared using currently applicable design standards.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-16-100, filed 8/27/99, effective 9/27/99.]

WAC 226-16-110 Allocation of freight mobility strategic investment program funds to regions. For the purpose of allocating funds for the freight mobility strategic investment program, the board shall allocate the first fifty-five percent of funds to the highest priority projects, without regard to location. The remaining funds shall be allocated equally among three regions of the state pursuant to RCW 47.06A.050.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-16-110, filed 8/27/99, effective 9/27/99.]

WAC 226-16-150 Freight mobility program management. The board will implement reasonable controls on project development as it deems necessary to allocate funds within the program funding level to prioritized projects.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-16-150, filed 8/27/99, effective 9/27/99.]

WAC 226-16-160 Work progress on freight mobility projects. The lead agency must begin work on a project within twelve months of the date the board approves the project, unless the board grants an extension. To determine if work has begun, the board will assess the project progress as compared to the information provided the board when the project was authorized for funding. If project activity has not started and it appears the project is falling behind the proposed schedule, the board may review the project status to determine if board funds should be withdrawn from the project and reallocated to another proposed project. The board may grant an extension if, in the board's opinion, the project will begin work shortly after the original twelve-month period has elapsed. For purposes of this section, "begin work" means the date that a contract is advertised.

[Statutory Authority: Chapter 47.06A RCW. 02-08-076, § 226-16-160, filed 4/3/02, effective 5/4/02; 99-18-048, § 226-16-160, filed 8/27/99, effective 9/27/99.]

WAC 226-16-170 Phase approval of freight mobility projects. The board will authorize freight mobility project approvals by phase for the purpose of controlling project expenditures and assuring that projects experiencing delay will not unduly tie up freight mobility funds. The three phases are design, right of way, and construction. Each phase normally will be funded by separate board approvals on forms provided by the board.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-16-170, filed 8/27/99, effective 9/27/99.]

WAC 226-16-180 Cost increases on freight mobility projects. Increases in freight mobility funds will not be available.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-16-180, filed 8/27/99, effective 9/27/99.]

WAC 226-16-200 Lack of performance on freight mobility projects. To assure that freight mobility projects remain on schedule, the board will monitor the project progress based on at least semi-annual reports and reimbursement payments on the project.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-16-200, filed 8/27/99, effective 9/27/99.]

Chapter 226-20 WAC FINANCIAL AND PAYMENT REQUIREMENTS

WAC

226-20-010	Matching ratios for freight mobility program funds.
226-20-020	Certification of nonprogram funds.
226-20-030	Reimbursable costs.
226-20-040	Audit of freight mobility program projects.
226-20-050	Recovery of freight mobility program funds on canceled projects.
226-20-060	Partial or progress payments for project costs.

WAC 226-20-010 Matching ratios for freight mobility program funds. The board gives preference to projects that contain the greatest levels of financial participation from nonprogram fund sources. The board shall consider twenty percent as the minimum partnership contribution, unless the board grants a special exception. The maximum amount of funding on a project from the freight mobility board shall be fifty million dollars. The board may allow the use of matching ratios greater than the original matching ratio on any phase of a project to facilitate project development, with the understanding that the total payments made by project completion shall not exceed the original matching ratio. The board allows other state funds to be considered part of the local matching funds, and port funds expended off of port property will be considered private funds.

[Statutory Authority: Chapter 47.06A RCW. 02-08-076, § 226-20-010, filed 4/3/02, effective 5/4/02; 99-18-048, § 226-20-010, filed 8/27/99, effective 9/27/99.]

WAC 226-20-020 Certification of nonprogram funds. The lead agency shall certify that nonprogram funds are available for the funding phase being considered.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-20-020, filed 8/27/99, effective 9/27/99.]

WAC 226-20-030 Reimbursable costs. Project costs eligible for reimbursement from the account shall be those proper and allowable costs incurred on a project after the project is authorized by the board.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-20-030, filed 8/27/99, effective 9/27/99.]

WAC 226-20-040 Audit of freight mobility program projects. Project records for each project developed through the use of freight mobility funding shall be audited to determine that the amount of freight mobility funds paid in connection with the project can be attributed to the project and supported by project records. The audit shall determine whether the lead agency has materially complied with the rules of the board and whether any failures to comply are significant in nature or effect. The board shall audit projects at the time of the project completion or at such additional times as may be directed by the board.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-20-040, filed 8/27/99, effective 9/27/99.]

WAC 226-20-050 Recovery of freight mobility program funds on canceled projects. Authorized projects that are subsequently canceled shall be eligible for reimbursement from the board, if the agency developed the project in good faith, with a reasonable expectation of completion. If the board does allow reimbursement for a canceled project, the board share of the project cannot exceed the original matching ratio.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-20-050, filed 8/27/99, effective 9/27/99.]

WAC 226-20-060 Partial or progress payments for project costs. The board will not make payments of freight mobility funds on projects unless the following tasks are complete:

- (1) The board has approved the phase of the project.
- (2) Local matching funds are certified to be available for the phase of the project that is being billed.

Requests for payment may be submitted from time to time as the work progresses. Payments less than five hundred dollars will not be made unless it is the final request for payment. The final request for payment must be submitted within six months of the completion of work.

The board will make an adjustment to the final payment, if necessary to assure that the original board matching ratio is not exceeded.

[Statutory Authority: Chapter 47.06A RCW. 99-18-048, § 226-20-060, filed 8/27/99, effective 9/27/99.]